

REMARKS

In the Final Office Action mailed on June 28, 2006, the Examiner rejected claims 1, 3, 8-11, 13, 17-20, 22-24 and 27 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,574,495 to Caporizzo in view of U.S. Patent No. 6,202,088 to Corrigan; rejected claims 4, 5 and 14 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo and Corrigan and further in view of U.S. Patent No. 6,463,588 to Jenkins et al. and U.S. Patent No. 6,425,132 to Chappell; rejected claim 6 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo and Corrigan and further in view of U.S. Patent No. 5,563,883 to Cheng; and rejected claim 25 as being unpatentable over Caporizzo and Corrigan and further in view of an article by Henderson.

As a minor formality, Applicant notes that claim 6 was previously cancelled so the present rejection of claim 6 is improper. Applicant requests the issuance of a new Office Action correcting this error and the restarting of the time period in which Applicant will reply.

In the Response to Arguments part of the Final Rejection mailed on June 28, 2006, the Examiner asserts that proper motivation to combine has been provided. Applicant disagrees. The Examiner has not, and cannot, answer the question of why would one of ordinary skill in the art modify the bit error rate teachings of Caporizzo with the teachings of Corrigan? The statement that “the benefit of having the initiation process executed by the set top terminal in order to enable devices to be added without supervision thereby reducing the overall support costs of the provider” is not a problem associated with Caporizzo’s teachings. The Examiner is assuming there is a deficiency in Caporizzo in how the settop terminals are registered with the cable system. This is not a

problem in Caporizzo because Caporizzo relates to reporting bit-error rates on settop terminals that are already registered with the cable system.

In addition, the combination of Caporizzo and Corrigan, as proposed by the Examiner does not work and destroys the purpose of Caporizzo. In the rejection, the Examiner asserts that Caporizzo's bit error information is the same as the claimed registration request. However, the bit error information is a culmination of errors in messages RECEIVED by the settop terminal. See Caporizzo, col. 5, lines 11-19. However, how is a settop terminal that is not yet registered receiving and processing messages to know what the bit error information is? The Examiner's proposed combination implies that the modified settop terminal will receive programming without registering, and therefore without paying for it. After some predetermined amount of time, the accumulated bit error information is then presumably sent upstream AS a "request registration message." But again, if the settop terminal is already receiving and processing data, why does it need to register now?

The Examiner also asserts that bit error information is the same as a "registration request message." See Final Rejection mailed June 28, 2006; page 5. As Applicant has stated previously, registration and bit error rates are different things and are therefore not the same.

Another feature of Caporizzo that the Examiner fails to address is the fact that the bit error information is channel specific. Referring to Figure 3, the microprocessor 160 only receives bytes for testing from tuner 130, demodulator 132 and VBI data receiver 134. See generally, col. 4, lines 1-14 and col. 5, lines 49-51. In many cable systems, certain subscribers can only receive and display, and therefore process bit error rate

information, for certain channels they have agreed to pay for. In the Examiner's proposed combination, each settop terminal would have to tune, demodulate and collect bit error information for EACH channel for a sufficient amount time. Then, the modified settop terminal would have to report that bit error message in order to "register" for EACH channel. Such a settop terminal would have to "register" 100 times in order for the subscriber to watch 100 channels. This doesn't make sense.

Finally, the proposed combination destroys the purpose of Caporizzo. In the Response to Arguments, the Examiner asserts that it would be obvious to transmit "bit error rates when a new device is added to the system." See Final Rejection mailed June 28, 2006, page 3. Since a settop terminal is typically registered only once in great while (i.e., lifetime of the terminal or maybe for a couple of years), the bit error rate would therefore only be reported once in a lifetime or every couple of years for certain settop terminals. Caporizzo expressly indicates collecting this data on a much more frequent basis. See Caporizzo, col. 5, lines 26-30. The "more than once" collection and reporting of bit error rates allows the "CATV network operator with an invaluable diagnostic tool for detecting and preventing CATV network problems." See Caporizzo, col. 5, lines 60-63. The proposed combination therefore destroys the benefits of Caporizzo.

With respect to claim 25, the Examiner is taking three disparate pieces of prior art and combining them using Applicant's disclosure as a roadmap. The bit error rate calculations and reporting done by Caporizzo occurs regardless of "benefit of saving money" argument provided by the Examiner. Again, there is no deficiency in Caporizzo as it relates to how the settop terminals are inserted into the network (i.e., rented from a cable provider or bought from a retail outlet). This "benefit" conferred by the Examiner

onto the proposed combination does NOT address any problems in Caporizzo. Thus,
there is no motivation to add Henderson to the combination of Caporizzo and Corrigan.

CONCLUSION

No fees are due for this amendment. However, the Office is authorized to charge any additional fees or underpayments of fees (including fees for petitions for extensions of time) under 37 C.F.R. 1.16 and 1.17 to account number 502117. Any overpayments should be credited to the same account.

Respectfully submitted,

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_____, July 27, 2006 ____
Date